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3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

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6 KITRICH AARON POWELL,

Case No. 3:21-cv-00111-MMD-WGC

7 v.

Petitioner,

ORDER

9 WILLIAM GITTERE, *et al.*,

10 Respondents.

11
12 Petitioner, a Nevada prisoner, has submitted a petition for writ of habeas corpus
13 pursuant to 28 U.S.C. § 2254. (ECF No. 1.) He has not, however, filed an application to
14 proceed *in forma pauperis* or paid the filing fee. Accordingly, this matter has not been
15 properly commenced. See 28 U.S.C. § 1915(a)(2); LSR 1-1, 1-2. In addition, the Court
16 notes that Petitioner, represented by appointed counsel, currently has a pending habeas
17 proceeding (2:06-cv-01264-KJD-DJA) challenging the same conviction and sentence.
18 Thus, this action will be dismissed without prejudice.

19 It is therefore ordered that this action is dismissed without prejudice. The Clerk of
20 Court is directed to enter judgment accordingly and close this case.

21 It is further ordered that a certificate of appealability is denied, as jurists of reason
22 would not find the Court's dismissal of this improperly commenced action without
23 prejudice to be debatable or incorrect.

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The Clerk of Court is further directed to send Petitioner a copy of the papers that he submitted in this action.

DATED THIS 8th Day of March 2021.

MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE